European Commission: Communication on a modern European copyright framework

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On 9 December 2015, the European Commission published a new Communication entitled “Towards a modern, more European copyright framework”. The purpose of the 12-page document is to set out how the Commission intends to achieve the modernisation of EU copyright rules, and a more European copyright framework, over the short and long term. Building upon the Commission’s May 2015 Communication on its Digital Single Market Strategy (see IRIS 2015-6/3), this new communication includes a number of specific proposals.

First, in order to ensure wider access to content across the European Union, the Commission has published a draft Regulation on the “portability” of online content services. The regulation is designed to ensure that users who have subscribed to or acquired content in their home country can access it when they are temporarily in another Member State. In addition, the Commission is considering other legislative proposals for spring 2016, including: (a) enhancing cross-border distribution of television and radio programmes online in the light of the results of the review of the Satellite and Cable Directive (see IRIS 2015-8/4); (b) supporting rights holders and distributors to reach agreement on licences that allow for cross-border access to content, including catering for cross-border requests from other Member States; and (c) making it easier to digitise out-of-commerce works and make them available, including across the EU.

Second, in relation to copyright exceptions in EU law, the Commission will also consider proposing additional legislation in spring 2016, including: (a) providing clarity on the scope of the EU exception for “illustration for teaching”, and its application to digital uses and to online learning; (b) providing a clear space for preservation by cultural heritage institutions, reflecting the use of digital technologies for preservation and the needs of born-digital and digitised works; (c) supporting remote consultation, in closed electronic networks, of works held in research and academic libraries and other relevant institutions, for research and private study; (d) clarifying the current EU exception permitting the use of works that were made to be permanently located in the public space (the “panorama exception”), to take into account new dissemination channels. Moreover, the Commission will also assess the need for action to ensure that, when Member States impose levies for private copying and reprography to compensate right holders, their different systems work well in the single market and do not raise

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barriers to the free movement of goods and services.

Third, to ensure a “well-functioning marketplace for copyright”, the Commission will examine whether action is needed on the definition of the rights of “communication to the public” and of “making available”. It will also consider whether any action specific to news aggregators is needed, including intervening on rights. Moreover, the Commission will also consider whether solutions at EU level are required to increase legal certainty, transparency and balance in the system that governs the remuneration of authors and performers in the EU, taking national competences into account.

Finally, in relation to the legal framework for the enforcement of intellectual property rights, including copyright, the Commission will assess options and consider by autumn 2016 the need to amend the legal framework focusing on commercial-scale infringements, inter alia to clarify, as appropriate, the rules for identifying infringers, the application of provisional and precautionary measures and injunctions and their cross-border effect, and the calculation and allocation of damages and legal costs.

European Commission, Communication from the Commission to the European parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Towards a modern, more European copyright framework, 9 December 2015, COM(2015) 626 Final

http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52015DC0626&from=EN

European Commission, Proposal for a Regulation of the European Parliament and of the Council on ensuring the cross-border portability of online content services in the internal market, 9 December 2015, COM92015) 627 Final

http://ec.europa.eu/newsroom/dae/document.cfm?action=display&doc_id=12524

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